

Executive Summary – Enforcement Matter – Case No. 48125

ESPINOZA STONE, INC.

RN101056687

Docket No. 2014-0075-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - EAQ, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Espinoza Stone Pit 1, 1465 County Road 234, Georgetown, Williamson County

Type of Operation:

Stone mining and processing operation

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: June 27, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,600

Amount Deferred for Expedited Settlement: \$4,519

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,013

Total Due to General Revenue: \$17,068

Payment Plan: 17 payments of \$1,004 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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ESPINOZA STONE, INC.
RN101056687
Docket No. 2014-0075-MLM-E

Investigation Information

Complaint Date(s): October 23, 2013

Complaint Information: Alleged there were dust, rocks, and mud on the roadway causing driving and health hazards.

Date(s) of Investigation: November 12, 2013

Date(s) of NOE(s): January 13, 2014

Violation Information

1. Failed to submit proof of recordation of notice in the county deed records within 60 days after approval of Water Pollution Abatement Plan ("WPAP") No. 11-06020201 [30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 11-06020201, Standard Conditions No. 2].
2. Failed to obtain approval of a modification to an approved WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone. Specifically, a concrete entrance road was under construction [30 TEX. ADMIN. CODE § 213.4(a)(1) and WPAP No. 11-06020201, Standard Conditions No. 4].
3. Failed to submit a completion report that the construction of the high service rock berms, the rip rap pad below the retention pond, the paved berms and paved roadway have been completed within 60 days after approval of WPAP No. 11-06020201 [30 TEX. ADMIN. CODE § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. I].
4. Failed to submit the initial survey report of pit depths within 60 days after approval of WPAP No. 11-06020201 and to submit annual survey reports thereafter [30 TEX. ADMIN. CODE § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. II].
5. Failed to submit proof of recordation of notice in the county deed records of the approval of the Aboveground Storage Tank Facility Plan within 60 days after approval of WPAP No. 11-06020201A [30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 11-06020201A, Standard Conditions No. 3].
6. Failed to install and maintain a structural control and to prevent the unauthorized discharge of industrial waste (process water) into or adjacent to any water in the state. Specifically, failure to install a berm on the south side of the sediment pond adjacent to the fines stockpiles area resulted in the unauthorized discharge of process water into Smalley Branch as documented on the Facility's periodic inspection reports dated September 29, 2011, December 27, 2011, February 29, 2012, May 2, 2012, and August 8, 2012 [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05BA51, Part III, Section A.4.(d), Structural Controls].

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ESPINOZA STONE, INC.
RN101056687
Docket No. 2014-0075-MLM-E

7. Failed to minimize generation of off-site tracking of raw materials, intermediate products, final products, or waste materials. Specifically, sediment accumulation was observed along the drainage ditch and in the culverts that run parallel to the Facility on the west side of County Road 234 [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05BA51, Part III, Section A.4.(a)(9), Best Management Practices].

8. Failed to submit written notice to the TCEQ Executive Director of the inactive status of the permitted Facility. Specifically, during the investigation, it was documented that the Facility is inactive for mineral mining and processing [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05BA51, Part III, Section D.4.(b), Inactive Facilities].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately install a berm on the south side of the sediment pond adjacent to the fines stockpiles area.
- b. Within 15 days:
 - i. Submit proof of deed recordation to the TCEQ Austin Regional Office for the Facility;
 - ii. Submit the required completion report to the TCEQ Austin Regional Office;
 - iii. Begin submitting annual survey reports of pit depths to the Austin Regional Office;
 - iv. Implement measures to minimize generation of off-site tracking of raw materials, intermediate products, final products, or waste materials;
 - v. Submit the required written notice to the TCEQ Executive Director of the inactive status for mineral mining and processing at the permitted Facility; and
 - vi. Submit written certification to demonstrate compliance with a.
- c. Within 30 days, submit written certification to demonstrate compliance with b.i. through b.v.

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d. Within 45 days, submit an administratively complete application for a modification of a WPAP, along with the associated application fee. Respond completely and adequately to all TCEQ requests for information concerning the Edwards Aquifer Recharge Zone application within 30 days of such requests, or by any other deadline specified in writing.

e. Within 60 days, submit written certification to demonstrate compliance with d.

f. Within 120 days, obtain approval of a modification to the Facility's approved WPAP.

g. Within 135 days, submit written certification to demonstrate compliance with f.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Jose J. Espinoza, President, ESPINOZA STONE, INC., P.O. Box 274,
Jarrell, Texas 76537

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Jan-2014	Screening	15-Jan-2014	EPA Due	
	PCW	27-Jan-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	ESPINOZA STONE, INC.				
Reg. Ent. Ref. No.	RN101056687				
Facility/Site Region	11-Austin		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	48125	No. of Violations	4
Docket No.	2014-0075-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profits	No
Multi-Media	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Enhancement	Subtotals 2, 3, & 7	-\$900
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Notes: Reduction for high performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$898
Approx. Cost of Compliance: \$900
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE	9.6%	Adjustment	\$778
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with Violation No. 3.

Final Penalty Amount	\$8,878
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,878
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,775
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,103
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Screening Date 15-Jan-2014

Docket No. 2014-0075-MLM-E

PCW

Respondent ESPINOZA STONE, INC.

Policy Revision 2 (September 2002)

Case ID No. 48125

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101056687

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 15-Jan-2014

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PCW

Respondent ESPINOZA STONE, INC.

Policy Revision 2 (September 2002)

Case ID No. 48125

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101056687

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(g) and Water Pollution Abatement Plan ("WPAP") No. 11-06020201, Standard Conditions No. 2

Violation Description Failed to submit proof of recordation of notice in the county deed records within 60 days after approval of WPAP No. 11-06020201.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 2721 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$986

This violation Final Assessed Penalty (adjusted for limits) \$986

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Aug-2006	15-Aug-2014	8.04	\$40	n/a	\$40

Notes for DELAYED costs

Estimated cost to submit proof of deed recordation of WPAP No. 11-06020201 to the TCEQ Austin Regional Office. Date required is the date the required deed recordation was due and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

31

\$40

Screening Date 15-Jan-2014

Docket No. 2014-0075-MLM-E

PCW

Respondent ESPINOZA STONE, INC.

Policy Revision 2 (September 2002)

Case ID No. 48125

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101056687

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. I

Violation Description

Failed to submit a completion report that the construction of the high service rock berms, the rip rap pad below the retention pond, the paved berms and paved roadway have been completed within 60 days after approval of WPAP No. 11-06020201.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

2721 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$986

This violation Final Assessed Penalty (adjusted for limits) \$986

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media Edwards Aquifer
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Aug-2006	15-Aug-2014	8.04	\$40	n/a	\$40

Notes for DELAYED costs

Estimated cost to submit a completion report to the Austin Regional Office. Date required is the date the required completion report was due and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$40

Screening Date 15-Jan-2014

Docket No. 2014-0075-MLM-E

PCW

Respondent ESPINOZA STONE, INC.

Policy Revision 2 (September 2002)

Case ID No. 48125

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101056687

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. II

Violation Description

Failed to submit the initial survey report of pit depths within 60 days after approval of WPAP No. 11-06020201 and to submit annual survey reports thereafter.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Release	Harm		
		Major	Moderate	Minor
Actual				
Potential				

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
		x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6

1826 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$6,000

Six single events are recommended (One for each report not submitted for years 2006 through 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$778

Violation Final Penalty Total \$5,919

This violation Final Assessed Penalty (adjusted for limits) \$5,919

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
 Case ID No. 48125
 Reg. Ent. Reference No. RN101056687
 Media Edwards Aquifer
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$600	4-Aug-2006	4-Aug-2011	5.92	\$178	\$600	\$778
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to submit the initial survey report of pit depths and subsequent annual survey reports to the Austin Regional Office. Date required is the date the first report was due and the final date is the date the 2011 report was due.

Approx. Cost of Compliance	\$600	TOTAL	\$778
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Screening Date 15-Jan-2014

Docket No. 2014-0075-MLM-E

PCW

Respondent ESPINOZA STONE, INC.

Policy Revision 2 (September 2002)

Case ID No. 48125

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101056687

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 213.4(g) and WPAP No. 11-06020201A, Standard Conditions No. 3

Violation Description

Failed to submit proof of recordation of notice in the county deed records of the approved Aboveground Storage Tank ("AST") Facility Plan within 60 days after approval of WPAP No. 11-06020201A.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

2721 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$986

This violation Final Assessed Penalty (adjusted for limits) \$986

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
 Case ID No. 48125
 Reg. Ent. Reference No. RN101056687
 Media Edwards Aquifer
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Aug-2006	15-Aug-2014	8.04	\$40	n/a	\$40

Notes for DELAYED costs

Estimated cost to submit proof of deed recordation of WPAP No. 11-06020201A to the TCEQ Austin Regional Office. Date required is the date the required deed recordation was due and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$40



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	13-Jan-2014	Screening	15-Jan-2014	EPA Due	
	PCW	24-Jan-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	ESPINOZA STONE, INC.				
Reg. Ent. Ref. No.	RN101056687				
Facility/Site Region	11-Austin	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	48125	No. of Violations	5
Docket No.	2014-0075-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$15,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10.0% Enhancement **Subtotals 2, 3, & 7** -\$1,500

Notes Reduction for high performer classification.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$796
Approx. Cost of Compliance \$8,400
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$13,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 1.6% **Adjustment** \$222

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost associated with Violation No. 2.

Final Penalty Amount \$13,722

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$13,722

DEFERRAL 20.0% Reduction **Adjustment** -\$2,744

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$10,978

Screening Date 15-Jan-2014

Docket No. 2014-0075-MLM-E

PCW

Respondent ESPINOZA STONE, INC.

Policy Revision 3 (September 2011)

Case ID No. 48125

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101056687

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 15-Jan-2014
Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media [Statute] Edwards Aquifer
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2014-0075-MLM-E

PCW

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) and Water Pollution Abatement Plan ("WPAP")
No. 11-06020201, Standard Conditions No. 4

Violation Description

Failed to obtain approval of a modification to an approved WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on November 12, 2013. Specifically, a concrete entrance road was under construction.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

64 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

Three monthly events are recommended from the investigation date of November 12, 2013 to the screening date of January 15, 2014.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$397

Violation Final Penalty Total \$3,431

This violation Final Assessed Penalty (adjusted for limits) \$3,431

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,500	12-Nov-2013	1-Feb-2015	1.22	\$397	n/a	\$397

Notes for DELAYED costs

Estimated cost to prepare and submit an application for a modification of a WPAP and obtain approval.
Date required is the investigation date and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,500

TOTAL

\$397

Screening Date 15-Jan-2014
Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media [Statute] Edwards Aquifer
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 2
Rule Cite(s)

Docket No. 2014-0075-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

30 Tex. Admin. Code § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. II

Violation Description

Failed to submit the initial survey report of pit depths within 60 days after approval of WPAP No. 11-06020201 and to submit annual survey reports thereafter.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

529 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Two single events are recommended (One for each report not submitted for years 2012 and 2013).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$222

Violation Final Penalty Total \$2,287

This violation Final Assessed Penalty (adjusted for limits) \$2,287

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media Edwards Aquifer
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	4-Aug-2012	12-Nov-2013	2.19	\$22	\$200	\$222
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to submit the initial survey report of pit depths and subsequent annual survey reports to the Austin Regional Office. Date required is the date the 2012 report was due and the final date is the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$222

Screening Date 15-Jan-2014
Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media [Statute] Edwards Aquifer
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 3
Rule Cite(s)

Docket No. 2014-0075-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Description

30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05BA51, Part III, Section A.4.(d), Structural Controls

Failed to install and maintain a structural control and to prevent the unauthorized discharge of industrial waste (process water) into or adjacent to any water in the state. Specifically, failure to install a berm on the south side of the sediment pond adjacent to the fines stockpiles area resulted in the unauthorized discharge of process water into Smalley Branch as documented on the Facility's periodic inspection reports dated September 29, 2011, December 27, 2011, February 29, 2012, May 2, 2012, and August 8, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5

314 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five quarterly events are recommended, one for each unauthorized discharge.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$150

Violation Final Penalty Total \$5,718

This violation Final Assessed Penalty (adjusted for limits) \$5,718

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media Edwards Aquifer
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$500	29-Sep-2011	1-Oct-2014	3.01	\$75	n/a	\$75
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	29-Sep-2011	1-Oct-2014	3.01	\$75	n/a	\$75

Notes for DELAYED costs

Estimated cost to install a berm on the south side of the sediment pond adjacent to the fines stockpiles area and to submit compliance documentation demonstrating corrective action taken to cease and contain the unauthorized discharge and the remediation action taken. Date required is the date the first unauthorized discharge was documented and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$150

Screening Date 15-Jan-2014
Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media [Statute] Edwards Aquifer
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 4

Docket No. 2014-0075-MLM-E

PCW

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR05BA51, Part III, Section A.4.(a)(9), Best Management Practices

Violation Description Failed to minimize generation of off-site tracking of raw materials, intermediate products, final products, or waste materials, as documented during an investigation conducted on November 12, 2013. Specifically, sediment accumulation was observed along the drainage ditch and in the culverts that run parallel to the Facility on the west side of County Road 234.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

64 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of November 12, 2013 to the screening date of January 15, 2014.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.

Case ID No. 48125

Reg. Ent. Reference No. RN101056687

Media Edwards Aquifer

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	12-Nov-2013	15-Aug-2014	0.76	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to implement measures to minimize generation of off-site tracking of raw materials, intermediate products, final products, or waste materials; and cleanup the accumulated sediment. Date required is the investigation date and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 15-Jan-2014
Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media [Statute] Edwards Aquifer
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 5
Rule Cite(s)

Docket No. 2014-0075-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR05BA51, Part III, Section D.4.(b), Inactive Facilities

Violation Description
Failed to submit written notice to the TCEQ Executive Director of the inactive status of the permitted Facility. Specifically, during the investigation conducted on November 12, 2013, it was documented that the Facility is inactive for mineral mining and processing.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

Matrix Notes
100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 64 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes
The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

Economic Benefit Worksheet

Respondent ESPINOZA STONE, INC.
Case ID No. 48125
Reg. Ent. Reference No. RN101056687
Media Edwards Aquifer
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	12-Nov-2013	15-Aug-2014	0.76	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to submit written notice to the TCEQ Executive Director of the inactive status of the permitted Facility. Date required is the investigation date and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8



Compliance History Report

PUBLISHED Compliance History Report for CN602447062, RN101056687, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN602447062, ESPINOZA STONE, INC.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101056687, ESPINOZA STONE PIT 1	Classification: HIGH	Rating: 0.00
Complexity Points:	8	Repeat Violator:	NO
CH Group:	04 - Mining		
Location:	1465 COUNTY ROAD 234 GEORGETOWN, TX, WILLIAMSON COUNTY		
TCEQ Region:	REGION 11 - AUSTIN		
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 71333 EDWARDS AQUIFER REGISTRATION 11-00000011 EDWARDS AQUIFER REGISTRATION 11-0602021A EDWARDS AQUIFER REGISTRATION 11-06020201A EDWARDS AQUIFER REGISTRATION 11-00001982 EDWARDS AQUIFER REGISTRATION 11-0602021 EDWARDS AQUIFER REGISTRATION 11-06020201 STORMWATER PERMIT TXR05BA51		
Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year: 2013	Rating Date: 09/01/2013
Date Compliance History Report Prepared:	January 23, 2014		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	January 23, 2009 to January 23, 2014		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Jorge Ibarra, P.E.	Phone:	(817) 588-5890

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ESPINOZA STONE, INC.
RN101056687**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-0075-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ESPINOZA STONE, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a stone mining and processing operation located at 1465 County Road 234 in Georgetown, Williamson County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 18, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand Six Hundred Dollars (\$22,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Thirteen Dollars (\$1,013) of the administrative penalty and Four Thousand Five Hundred Nineteen

Dollars (\$4,519) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seventeen Thousand Sixty-Eight Dollars (\$17,068) of the administrative penalty shall be payable in seventeen monthly payments of One Thousand Four Dollars (\$1,004) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to submit proof of recordation of notice in the county deed records within 60 days after approval of Water Pollution Abatement Plan ("WPAP") No. 11-06020201, in violation of 30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 11-06020201, Standard Conditions No. 2, as documented during an investigation conducted on November 12, 2013.

2. Failed to obtain approval of a modification to an approved WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1) and WPAP No. 11-06020201, Standard Conditions No. 4, as documented during an investigation conducted on November 12, 2013. Specifically, a concrete entrance road was under construction.
3. Failed to submit a completion report that the construction of the high service rock berms, the rip rap pad below the retention pond, the paved berms and paved roadway have been completed within 60 days after approval of WPAP No. 11-06020201, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. I, as documented during an investigation conducted on November 12, 2013.
4. Failed to submit the initial survey report of pit depths within 60 days after approval of WPAP No. 11-06020201 and to submit annual survey reports thereafter, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and WPAP No. 11-06020201, Special Conditions No. II, as documented during an investigation conducted on November 12, 2013.
5. Failed to submit proof of recordation of notice in the county deed records of the approval of the Aboveground Storage Tank ("AST") Facility Plan within 60 days after approval of WPAP No. 11-06020201A, in violation of 30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 11-06020201A, Standard Conditions No. 3, as documented during an investigation conducted on November 12, 2013.
6. Failed to install and maintain a structural control and to prevent the unauthorized discharge of industrial waste (process water) into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05BA51, Part III, Section A.4.(d), Structural Controls, as documented during an investigation conducted on November 12, 2013. Specifically, failure to install a berm on the south side of the sediment pond adjacent to the fines stockpiles area resulted in the unauthorized discharge of process water into Smalley Branch as documented on the Facility's periodic inspection reports dated September 29, 2011, December 27, 2011, February 29, 2012, May 2, 2012, and August 8, 2012.
7. Failed to minimize generation of off-site tracking of raw materials, intermediate products, final products, or waste materials, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05BA51, Part III, Section A.4.(a)(9), Best Management Practices, as documented during an investigation conducted on November 12, 2013. Specifically, sediment accumulation was observed along the drainage ditch and in the culverts that run parallel to the Facility on the west side of County Road 234.
8. Failed to submit written notice to the TCEQ Executive Director of the inactive status of the permitted Facility, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05BA51, Part III, Section D.4.(b), Inactive Facilities, as documented during an investigation conducted on November 12, 2013. Specifically, during the investigation, it was documented that the Facility is inactive for mineral mining and processing.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ESPINOZA STONE, INC., Docket No. 2014-0075-MLM-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, install a berm on the south side of the sediment pond adjacent to the fines stockpiles area, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05BA51.
 - b. Within 15 days after the effective date of this Agreed Order:
 - i. Submit proof of deed recordation to the TCEQ Austin Regional Office for the Facility, in accordance with 30 TEX. ADMIN. CODE § 213.4(g) and WPAP Nos. 11-06020201 and 11-06020201A;
 - ii. Submit the required completion report to the TCEQ Austin Regional Office, in accordance with 30 TEX. ADMIN. CODE § 213.4(k) and WPAP No. 11-06020201;
 - iii. Begin submitting annual survey reports of pit depths to the Austin Regional Office, in accordance with 30 TEX. ADMIN. CODE § 213.4(k) and WPAP No. 11-06020201;
 - iv. Implement measures to minimize generation of off-site tracking of raw materials, intermediate products, final products, or waste materials; and cleanup the sediment, in accordance with TPDES General Permit No. TXR05BA51;

- v. Submit the required written notice to the TCEQ Executive Director of the inactive status for mineral mining and processing at the permitted Facility, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05BA51; and
- vi. Submit written certification as described below in Ordering Provisions No. 2.g., to demonstrate compliance with Ordering Provisions No. 2.a.
- c. Within 30 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provisions No. 2.g., to demonstrate compliance with Ordering Provision Nos. 2.b.i. through 2.b.v.
- d. Within 45 days after the effective date of this Agreed Order, submit an administratively complete application for a modification of a WPAP, along with the associated application fee to:

Edwards Aquifer Protection Program
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respond completely and adequately to all TCEQ requests for information concerning the Edwards Aquifer Recharge Zone application within 30 days of such requests, or by any other deadline specified in writing.

- e. Within 60 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provisions No. 2.g., to demonstrate compliance with Ordering Provision No. 2.d.
- f. Within 120 days after the effective date of this Agreed Order, obtain approval of a modification to the Facility's approved WPAP.
- g. Within 135 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions No. 2.f. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or


otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

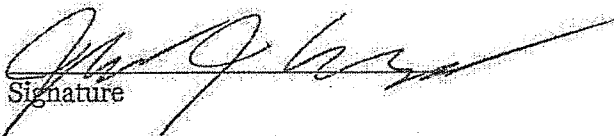
7/17/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4-30-15
Date

José J. Espinoza
Name (Printed or typed)
Authorized Representative of
ESPINOZA STONE, INC.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.